

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN TOWER CORPORATION,)	
)	
Plaintiff,)	
)	Case No. 04-12317WGY
v.)	
)	
J.L.B. CONSTRUCTION, INC. et al.)	
)	
Defendants.)	

**ANSWER, COUNTERCLAIM AND CROSS-CLAIM
OF DEFENDANT PRIME COMMUNICATIONS, LLC**

Comes now defendant Prime Communications, LLC ("Prime") and for its Answer,
Counterclaim and Cross-claim in the above-matter hereby states as follows:

INTRODUCTORY STATEMENT

Prime is without sufficient information to admit or deny the statements
contained in the Introductory Statement and thus denies same.

PARTIES

1. Admit.
2. Prime is without sufficient information to admit or deny the allegations of this
paragraph, and thus denies same.
3. Prime is without sufficient information to admit or deny the allegations of this
paragraph, and thus denies same.
4. Admit.

5. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

6. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

7. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

8. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

9. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

10. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

11. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

12. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

JURISDICTION

13. Prime admits that this Court has jurisdiction over the funds that Plaintiff has deposited with this Court, but Prime states that this Court does not have jurisdiction to prohibit Prime from exercising its rights under the mechanic's liens statutes of the states in which Prime supplied labor and/or materials

FACUTAL BACKGROUND

14. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

15. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

16. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

17. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

18. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

19. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

20. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

21. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

22. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

23. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

24. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph.

25. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

26. Prime admits that it has not been paid and is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

27. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

28. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

29. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

30. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

31. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

32. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph.

33. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

34. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

35. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

36. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

37. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

38. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

39. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

40. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

41. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

42. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

43. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

44. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

45. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

46. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

47. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

48. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

49. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

50. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

51. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

52. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

53. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

54. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

55. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph.

56. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

57. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

58. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

59. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

60. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

61. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

62. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

63. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

64. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

65. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

66. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

67. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

68. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

69. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

70. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

71. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

72. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

73. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

74. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

75. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

76. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

77. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

78. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

79. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

80. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

81. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

82. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

83. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

84. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

85. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

86. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

87. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

88. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

89. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

90. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

91. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

92. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

93. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

94. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph.

95. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

96. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

97. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

98. Prime admits that it is owed money but Prime avers that it is owed more than the amount stated in this paragraph. Prime is without sufficient information to admit or deny the remaining allegations of this paragraph, and thus denies same.

99. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

100. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

101. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

102. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

103. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

104. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

105. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

106. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

107. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

108. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

109. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

110. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

111. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

112. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

113. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

114. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

115. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

116. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

117. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

118. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

119. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

120. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

121. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

122. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

COUNT I
(Breach of Contract)

(American Tower Corp. v. J.L.B. Construction, Inc.)

123. Prime incorporates by reference herein its responses to the preceding paragraphs.

124. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

125. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

126. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

COUNT II

(Fraud)

(American Tower Corp. v. J.L.B. Construction, Inc.)

127. Prime incorporates herein by reference its responses to the preceding paragraphs.

128. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

129. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

130. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

131. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

132. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

COUNT III
(Indemnification)
(American Tower Corp. v. J.L.B. Construction, Inc.)

133. Prime incorporates by reference herein its responses to the preceding paragraphs.

134. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

135. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

136. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

137. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

138. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

139. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

140. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

141. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

142. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

143. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

144. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

145. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

COUNT IV
(Contribution)
(American Tower Corp. v. J.L.B. Construction, Inc.)

146. Plaintiff incorporates by reference herein its responses to the preceding paragraphs.

147. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

148. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

149. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

150. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

151. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

COUNT V
(Interpleader)
(American Tower Corp. v. All Defendants)

152. Prime incorporates by reference herein its responses to the preceding paragraphs.

153. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

154. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

155. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

156. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

157. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

158. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

159. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

160. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

161. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

162. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

163. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

164. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

165. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

166. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

167. Prime incorporates herein by reference its responses to the preceding paragraphs.

168. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

169. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

170. Prime is without sufficient information to admit or deny the allegations of this paragraph, and thus denies same.

WHEREFORE, Prime respectfully requests that the Court award it its full damages in this matter and such other and further relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff is liable for sums over and above the interpleader amount.
3. This Court does not have jurisdiction to prohibit Prime from exercising its rights under the mechanic's liens statutes of the states in which Prime supplied labor and/or materials.

COUNTERCLAIM

For its Counterclaim against American Tower Corporation, Prime Communications, LLC states as follows:

1. Counter-plaintiff Prime Communications, LLC is a corporation formed under the laws of the State of Missouri with its principal office in Parkville, Missouri.
2. Counter-defendant American Tower Corporation (“ATC”) is a corporation formed under the laws of the State of Delaware with its principal office in Boston, Massachusetts.
3. This Court has proper jurisdiction over this Counterclaim by reason of complete diversity of citizenship and because the jurisdictional amount in controversy exceeds \$75,000.00.

COUNT I

(Negligence in administering contract and making payments)

4. Prime incorporates by reference the allegations contained in the preceding paragraphs of its Counterclaim.
5. In administering and making payments to JLB Construction, Inc. and others for performing work and/or supplying materials to and for the various communications towers throughout the United States as detailed in ATC’s Complaint, Plaintiff ATC owed Prime a duty to use due and reasonable care.
6. ATC breached such duty by administering and making such payments to JLB Construction, Inc. and others in a negligent and deficient manner, resulting in numerous subcontractors, including Prime, not being paid for work and materials provided to the jobsites.

7. As a direct and proximate result of ATC's negligence, Prime has been damaged by an amount exceeding \$75,000.00.

WHEREFORE, for Count I of its Counterclaim, Prime respectfully requests that it be awarded its full damages proven at trial, plus interest and court costs, and that Prime be awarded such other and further relief as the Court deems just and proper.

COUNT II
(Negligence in providing materials)

8. Prime incorporates by reference the allegations contained in the preceding paragraphs of its Counterclaim.

9. ATC owed Prime a duty to use due and reasonable care in supplying the necessary materials for the work Prime was hired to perform on the communications towers detailed in ATC's Complaint.

10. ATC breached such duty by failing to use due and reasonable care and failing and refusing to provide such materials in a timely and efficient manner in order for Prime to efficiently perform its work on such towers.

11. As a direct and proximate result of ATC's negligence, Prime was forced to work in an inefficient manner and Prime's work was delayed, resulting in Prime suffering damages in an amount exceeding \$75,000.00.

WHEREFORE, for Count II of its Counterclaim, Prime respectfully requests that it be awarded its full damages proven at trial, plus interest and court costs, and that Prime be awarded such other and further relief as the Court deems just and proper.

COUNT III
(Breach of third-party beneficiary contract)

12. Prime incorporates by reference the allegations contained in the preceding paragraphs of its Counterclaim.

13. ATC and JLB entered into a contract that called for ATC to make timely payments to JLB for work performed by JLB and its subcontractors in connection with the communications towers detailed in ATC's Complaint.

14. As a subcontractor to JLB, Prime was a third-party beneficiary of such contract.

15. ATC breached its obligations under such contract by failing and refusing to make payments in a timely manner.

16. As a direct and proximate result of ATC's breach, Prime has been damaged in an amount exceeding \$75,000.00.

WHEREFORE, for Count III of its Counterclaim, Prime respectfully requests that it be awarded its full damages proven at trial, plus interest and court costs, and that Prime be awarded such other and further relief as the Court deems just and proper.

CROSS-CLAIM

For its Cross-claim against JLB Construction, Inc., Prime Communications, LLC states as follows:

1. Cross-plaintiff Prime Communications, LLC is a corporation formed under the laws of the State of Missouri with its principal office in Parkville, Missouri.
2. Cross-defendant JLB Construction, Inc. ("JLB") is a corporation formed under the laws of the State of Iowa with its principal office in Denver, Iowa.
3. This Court has proper jurisdiction over this Cross-claim by reason of complete diversity of citizenship and because the jurisdictional amount in controversy exceeds \$75,000.00.

COUNT I
(Breach of contract)

4. Prime incorporates by reference the allegations contained in the preceding paragraphs of its Counterclaim.
5. JLB and Prime entered into a contract whereby Prime agreed to provide certain labor and materials in connection with certain communications towers detailed in the underlying Complaint in this matter, and whereby JLB agreed to pay Prime for such labor and materials in accordance with the parties' agreement.
6. Prime fully performed under the parties' contract, but JLB breached such contract failing and refusing to pay Prime in accordance with the parties' agreement.
17. As a direct and proximate result of JLB's breach, Prime has been damaged by an amount exceeding \$75,000.00.

WHEREFORE, for its Cross-claim against JLB, Prime respectfully requests that it be awarded its full damages proven at trial, plus interest and court costs, and that Prime be awarded such other and further relief as the Court deems just and proper.

Dated: December 8, 2004

Respectfully submitted,

Prime Communications, Inc.

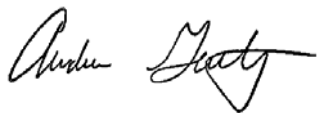
By its attorney:



Andrew C. Gately
BBO# 645606
Gately & Goldman, LLP
34 Channing Street
Newton, MA 02458
Tel. (617) 969-8555
Fax (617) 969-5552

CERTIFICATE OF SERVICE

I certify under penalties of perjury that the above and foregoing was filed electronically on December 8, 2004 via the Court's CM/ECF system, thereby generating a Notice of Electronic Filing (NEF) and satisfying the requirements of service under Fed.R.Civ.P. 5(b)(2)(D).



Attorney for Plaintiff